

**REMARKS**

Claims 21-34 are pending in the application. The amendment to the specification updates the priority information and adds no new matter.

The objection/rejections will be addressed in the order presented in the Office Action mailed July 25, 2003.

**Incorrect designation of application as a divisional application**

The Examiner notes on page 2 of the Office Action that it is inappropriate to designate the instant application as a divisional application and that it would be considered a continuation of the '202 Application. Applicants have amended the first paragraph to designate the present application as a continuation. This amendment adds no new matter.

**Priority**

The first paragraph of the specification has been amended to update the application status as indicated by the Examiner.

**Oath/Declaration**

The Examiner has required a new oath or declaration because the Declaration on file incorrectly designates 08/732,676 as a provisional application. A substitute Declaration is submitted herewith. It designates Application U.S. Ser. No. 08/732,676 as a non-provisional Application.

One of the inventors, Karen Klein, has not signed the substitute Declaration. Therefore, a petition under 37 C.F.R. § 1.47(a) including proof of the pertinent facts, the fee set forth in § 1.17(h) and the last known address of the non-signing inventor accompanies this response.

Applicants respectfully note that a Revocation and Substitution of Power of Attorney and Notification of Change of Correspondence Address" and Statement under 37 C.F.R. § 3.73(b) were filed on November 11, 2003. This postdates the Power of Attorney indicated on the substitute Declaration.

**Obviousness-type double patenting**

Claims 21-23, 27, 28, and 30-33 were rejected for alleged obviousness-type double patenting over claims 4-7 and 9 of U.S. Patent No. 6,107,540. Claims 21, 22, and 27 were rejected for alleged obviousness-type double patenting over claims 4, 10, and 11 of U.S. Patent No. 6,365,797, and claims 21-34 were further rejected for alleged obviousness-type of double patenting over claims 1-4 and 7-10 of U.S. Patent No. 6,107,540.

U.S. Patent No. 6,107,540, U.S. Patent No. 6,365,797, U.S. Application No. 10/062,925, and the subject application are commonly owned by the Regents of the University of California. Applicants submit a terminal disclaimer and Certificate under 37 C.F.R. § 3.73(b) with this Amendment. The terminal disclaimer disclaims the terminal portion of the term of a patent granted on the instant application over U.S. Patent No. 6,107,540; U.S. Patent No. 6,365,797; and any patent to issue from Application No. 10/062,925. Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. See, MPEP §804.02. Applicants therefore respectfully request withdrawal of the obviousness-type double patenting rejections.

Appl. No. 10/062,684  
Amdt. dated December 23, 2003  
Reply to Office Action of July 25, 2003

PATENT

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Chuan Gao  
Reg. No. 54,111

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
JML/mcd  
60106323 v1